

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

HALLIE MANNETTE B.,

Plaintiff(s),

v.

MARTIN O'MALLEY,

Defendant(s).

Case No. 2:24-cv-02010-NJK

**Order**

[Docket No. 1]

Plaintiff has requested authority pursuant to 28 U.S.C. § 1915 to proceed in forma pauperis.  
Docket No. 1.

The Court may authorize the commencement of an action without prepayment of fees and costs or security therefor, by a person who has shown that she is unable to pay such costs. 28 U.S.C. § 1915(a)(1). A determination of whether the plaintiff has shown an inability to pay is a matter left to the discretion of the court. *See Rowland v. California Men's Colony, Unit II Men's Advisory Council*, 506 U.S. 194, 217-218 (1993). In exercising that discretion, the Court evaluates the income and assets to which the plaintiff has access, including those of a spouse. *See, e.g., Flores v. Colvin*, 2014 U.S. Dist. LEXIS 93236, at \*3-4 (D. Nev. May 22, 2014). While an applicant need not be totally destitute to qualify for in forma pauperis status, she must demonstrate that she cannot pay those costs while still providing for the necessities of life. *Adkins v. E.I. DuPont de Nemours & Co.*, 335 U.S. 331, 339 (1948).

The application in this case identifies income of \$4,000 - \$5,000 per month from Plaintiff's spouse, Docket No. 1 at 1, 2, which significantly exceeds the federal poverty guidelines for a family of three, *cf. Andrea L.M. v. O'Malley*, 2024 U.S. Dist. Lexis 117157, at \*2 (D. Nev. July 3, 2024). That monthly income is also well above the amounts that have led to denial of *in forma*

1 *pauperis* status, *see, e.g., Brunson v. Soc. Sec.*, 2019 WL 6709544, at \*1 (D. Nev. Oct. 31, 2019)  
2 (denying in forma pauperis status based on monthly income of \$1,397), *adopted*, 2019 WL  
3 6700193 (D. Nev. Dec. 9, 2019), and the Court has rejected similar requests, *see Andrea L.M.*,  
4 2024 U.S. Dist. Lexis 117157, at \*2. Moreover, while the application identifies substantial  
5 monthly expenses, they still fall short of the outer-range of income identified (\$5,000) and they  
6 appear to be excessive at any rate, such as identifying \$1,000 for monthly utility expenses. At  
7 bottom, a financial picture has not been painted that a family of three with a monthly household  
8 income of \$4,000 - \$5,000 cannot afford to pay the \$405 filing fee.

9 Accordingly, Plaintiff's application to proceed in forma pauperis is **DENIED**. Plaintiff  
10 must pay the filing fee by January 16, 2025.

11 IT IS SO ORDERED.

12 Dated: December 4, 2024

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16 Nancy J. Koppe  
17 United States Magistrate Judge  
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